

### REMARKS

Claims 1, 3–5, 7–10 stand rejected under 35 U.S.C. 102(e) as being anticipated by Higuchi et al. (U.S. Pub. No. 2003/0050050 A1). For at least the following reasons, the Examiner's rejection is respectfully traversed.

With regards to claim 1, the Office Action refers to paragraphs 77, 81 and 83 in Higuchi for disclosing: the accessing process sequence setting unit sets a process sequence during interruption in the case that the own apparatus accepts an interrupt request when data is acquired from the set site in the data acquiring process sequence (Office Action, 8/22/2006, page 4). The Office Action also states on page 2 that the Higuchi disclosure, of if there is not enough battery supply (paragraph 77, 81), the portable device will display a warning message (paragraph 82), and will reschedule the downloading period to a later time (paragraph 83), reads on the above-mentioned claimed elements.

As shown in step 23 of Fig. 7, Higuchi checks the download environment of the radio wave condition, the vacant capacity, and the remaining amount of the battery (Fig. 7; paragraph 72–74). In Higuchi, the download environment must first satisfy the downloadable condition in step S25 *before a download process is executed* in step S27 (Fig. 7, paragraph 75–78). If the downloadable condition in step S23 is not satisfied and an optimization process in step S31 does not improve the download environment, then Higuchi discloses outputting a warning in step S35 and renewing the reserved time in step S36 (Fig. 7; paragraph 79–83). The Higuchi download process of step S27 is shown in Figs. 8–11 (paragraph 85). As shown in Fig. 8, a controller 36 calls the download server 20 of a download destination in step S51 and determines if a connection is established in step S53 (Fig. 8; paragraph 87).

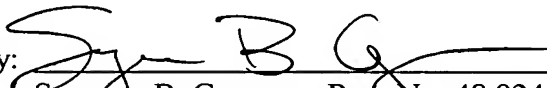
Since Higuchi checks the download environment to determine if the downloadable condition is satisfied *before* the connection to the download destination is established, the result of the download environment check occurs *before* any download destination is accessed and

*before* any data is acquired from the download destination. Further, the Higuchi download environment check merely results in a download process or an optimization process. Thus, the result of the Higuchi download environment check does not cause interruption when data is acquired from the destination site. Therefore, Higuchi fails to disclose or teach that, when data is acquired from the accessed set site in the data acquiring process sequence, the accessing process sequence setting unit sets a process sequence during interruption in the case that the own apparatus accepts an interrupt request. Thus, Higuchi does not disclose or teach all the elements of the claimed invention.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge the same to our Deposit Account No. 16-0820, our Order No. 38318.

Respectfully submitted,  
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